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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,955	10/31/2003	Robert Bowman	23-0063	5977
7590	02/24/2004		EXAMINER	
Kaardal & Associates, PC Attn: Ivar M. Kaardal Suite 250 3500 South First Ave. Circle Sioux Falls, SD 75105-5802			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	
DATE MAILED: 02/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/700,955	BOWMAN, ROBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	David J Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
**THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10-31-04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## Detailed Action

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 10 and 11s. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to because there is no reference numeral and leader line pointing out the rod holders and there is no reference numeral and leader line pointing to the device that clamps the rod holders to the medial portion of the support member for selective engagement to the support member. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the vertically mounted cleats of the boat must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Specification*

2. The disclosure is objected to because of the following informalities: on page 5 line 10 reference numeral “10” does not appear in the drawing figures.

On page 8 line 12 the reference numeral “11s” is not shown in the drawing figures.

On page 5 line 17, page 5 lines 18-19 and page 8 line 12, there is no reference numeral to indicate the rod holders in the drawing figures.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the limitation “...the vertically mounted cleats of the boat...” in claims 4-5 is not supported in the specification and should either be added to the specification or deleted from the claims .

Appropriate correction is required.

*Claim Objections*

3. Claims 1 and 10 are objected to because of the following informalities: on line 2 of claim 1 and on line 2 of claim 10, - -be- - should be inserted before “positioned”. Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear to how the fishing rod holders are selectively engaged to the medial portion of the support member, in that the specification states that the rod holders are clamped to the medial portion of the support member, but do not say what the apparatus is that clamps the rod holders to the medial portion of the support member.

Claims 2-9 depend from rejected claim 1 and include all of the limitations of claim 1 thereby rendering these dependent claims indefinite.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-5 and 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to how the mounting members and mounting portions

clamp around the cleat of the boat. The claim should state that the mounting member is located adjacent one side of the cleat and the mounting portion is located adjacent a second side of the cleat with the second side of the cleat being opposite the first side and the mounting member and associated mounting portion clamping around the cleat when placed adjacent their respective first and second sides of the cleat.

Claim 2 recites the limitation "the cleats" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claims 3-5 depend from rejected claim 2 and include all of the limitations of claim 2 thereby rendering these dependent claims indefinite.

Claim 3 recites the limitation "the horizontally mounted cleats of the boat" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claims 4 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to how the fasteners can be placed through both the horizontal and vertical bores/holes.

Claims 4-5 recite the limitation "the vertically mounted cleats of the boat" in lines 12-13 of claim 4 and lines 11-12 of claim 5. There is insufficient antecedent basis for this limitation in the claims.

Claim 9 recites the limitation "the hull of the boat" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the cleats" in line 19. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the horizontally mounted cleats of the boat" in line 35.

There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,564,670 to Dysarz.

Referring to claim 1, Dysarz discloses a fishing pole holder mounting system for permitting fishing rod holders to be positioned adjacent the rear of a boat, the fishing pole holder mounting system comprising, a support member – at 55, comprising a medial portion and a plurality of mounting portions – proximate 1, the medial portion being positioned between the mounting portions, the mounting portions of the support member being adapted for being selectively coupled to the boat such that the medial portion of the support member extends along the rear of the boat – at 60 – see figure 22, the medial portion being adapted for being selectively engaged by the fishing rod holders – at 55 (the fishing rod holders are made to selectively engage the medial portion during manufacture and assembly or during use), such that the medial portion supports fishing rods – at 49, placed in the fishing rod holders and allowing the fishing rods to extend outwardly from the rear of the boat, the medial portion being coupled to the mounting

portions at an angle to allow the medial portion to be positioned above the rear of the boat – see for example figure 22.

Referring to claim 2, Dysarz discloses each of a pair of mounting members – at 1, being selectively coupled to one of the mounting portions of the support member – see figure 22, the mounting members being adapted for being positioned adjacent one of the cleats – at 9, of the boat such that one of the mounting portions is positioned opposite the associated one of the mounting members, each of the mounting members and the associated one of the mounting members being adapted for clamping around the associated one of the cleats to mount the support member to the boat when the mounting members are coupled to the mounting portions of the support member – see for example claims 1-3 and 22.

Referring to claim 9, Dysarz discloses the support member – at 55, being substantially U-shaped, the support member being adapted for substantially matching a perimeter of the rear of the hull of the boat – see for example figure 22.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dysarz as applied to claim 1 above, and further in view of U.S. Patent No. 5,673,507 to Stokes.

Referring to claim 6, Dysarz does not disclose a brace member being selectively coupled to the medial portion of the support member, the brace member being adapted for extending between the support member and a hull of the boat such that the brace member is for inhibiting the support member bending downward and striking the boat. Stokes does disclose a brace member – at 40, 60-62, being selectively coupled to the medial portion – 66, of the support member – at 42,48,50,66, the brace member being adapted for extending between the support member and a hull of the boat such that the brace member is for inhibiting the support member bending downward and striking the boat – see for example figures 2-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Dysarz and add the brace member of Stokes, so as to allow for the device to be securely held to the boat and to allow the fishing rod holders to be securely held to the boat.

Referring to claim 7, Dysarz as modified by Stokes further discloses the brace member comprises a support aperture – proximate 60,62, the support aperture extending through the brace member, the support aperture being for receiving the support member – at 42,48,50,66, such that the support member extends through the brace member – see for example figures 2-3 of Stokes.

Referring to claim 8, Dysarz as modified by Stokes discloses the brace member comprises a set aperture – at 70, the set aperture extending through the brace member – at 62, into the support aperture of the brace member, the set aperture of the brace member receiving a set fastener – at 68, such that the set fastener selectively extends through the brace member and into the support aperture, the set fastener being for abutting against the support member – at 66, extending through the support aperture of the brace member to secure the support member to the

brace member and inhibit sliding of the brace member with respect to the support member – see for example figures 2-3 and 6 of Stokes. Dysarz as modified by Stokes does not disclose the fastener is threadably received in the set aperture. However, this would have been an obvious matter of design choice to one of ordinary skill in the art, since applicant does not state that using a threaded connection is done for any particular purpose or solves any particular problem over other types of fastener connections and it appears the device of Dysarz as modified by Stokes would perform equally as well with a threaded connection between the fastener and the set aperture.

***Allowable Subject Matter***

8. Claims 3-5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to fishing rod holders in general:

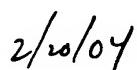
- U.S. Pat. No. 4,388,774 to Thoemke – shows fishing rod holder mounted on boat
- U.S. Pat. No. 4,527,349 to Emory – shows fishing rod holder mounted on boat
- U.S. Pat. No. 4,901,469 to Murray – shows fishing rod holder mounted on boat
- U.S. Pat. No. 4,869,195 to Eichfeld – shows fishing rod holder mounted on boat
- U.S. Pat. No. 4,916,847 to Rusgo – shows fishing rod holder mounted on boat
- U.S. Pat. No. 5,435,093 to Minorics – shows fishing rod holder mounted on boat
- U.S. Pat. No. 5,461,817 to Flood – shows fishing rod holder mounted on boat
- U.S. Pat. No. 5,662,306 to Dysarz – shows fishing rod holder mounted on cleat
- U.S. Pat. No. 6,289,627 to Gibbs – shows fishing rod holder mounted on boat
- U.S. Pat. No. 6,568,648 to Ray – shows fishing rod holder mounted on boat

10. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.



Peter M. Poon  
Supervisory Patent Examiner  
Technology Center 3600



2/20/04